

REMARKS

Independent claim 17 is a 12-step method claim for processing citrus peel. The Examiner has rejected this claim as obvious over Applicant's earlier patent (Jones '799). The Examiner sets forth approximately six instances where the steps as claimed are not anticipated by Jones, and states that in each case the claimed steps would have been obvious to one having ordinary skill in the art. It is respectfully submitted that the presence of six distinctive steps out of twelve total steps in the claim evidences that the selection of these particular six steps in combination cannot support a case for obviousness.

The Examiner takes each step of the independent claim and asserts that each such action would be obvious based on the state of the art. Even if the Examiner had cited references that separately teach the individual steps, it is established that "a statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a prima facie case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993)." Furthermore, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999). See also *In re Kotzab*, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1318 (Fed. Cir. 2000). Thus, simply because processing steps such as adding water, evaporating liquid, pressing solids to remove liquid, recycling water, etc. are generally known processing steps, it does not follow that one skilled in the art would be motivated to combine all of these steps in the manner set forth in the claims.

The chosen combination of processing steps set forth in claim 17 address long-standing problems in the industry that have not been sufficiently addressed, and in particular were not sufficiently addressed in Applicant's earlier patent. For example, claim 17 requires that the citrus peel first be cut to produce a slurry of solid particles and liquid, and then that the slurry of particles and liquid (not the citrus peel) have water added, be heated and mixed. In Jones '799, the citrus peel is heated prior to its being fragmented (col. 4, lines 10-12), for the purpose of lowering "the viscosity of the citrus oil so that a greater percentage of the oil contained in the peel will be released during the fragmentation step" (col. 5, lines 13-17). In the application at hand, the mixture of solid particles, liquid and added water is heated after the fragmentation step to approximately 120-140°F, with the major purpose of the heating being to inhibit enzymatic activity to prevent fermentation, with the upper limit being necessary to prevent degradation of the hydrogen bonds which would adversely affect gelling strength (page 12, lines 10-15). This step would not be obvious on the basis that "heating is frequently used when mixing food articles", as stated by the Examiner.

The Examiner states at various points in the office action that the steps of evaporating liquid to produce water for recycling, and the steps of adding water to already pressed solid particles, re-separating the liquid and solid particles, and re-pressing the solid particles to produce more water for recycling is obvious based on the state of the art. This statement overlooks that fact that waste liquids having unacceptably high concentrations of BOD and hazardous additives was the state of the art in this industry prior to Jones '799, and that this invention improves upon Jones '799 not only by improving the quality of the water finally discharged into the environment, but more importantly does so in a manner that harvests valuable and useful components normally lost in the process. Recycling of the water after proper

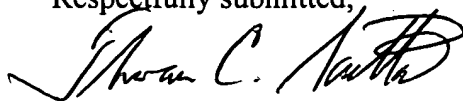
treatment from various steps in the process simultaneously increases the yield of these products, cleanses the water so that it can be discharged directly into the environment and lowers the overall consumption of water. The water is not randomly recycled, but recycled after particular steps such that the composition of the water is proper for its intended recycling purpose. In the invention at hand, the process produces high grade citrus peel oil, food grade citrus peel juice, molasses, aromas, essences, and food grade pectin pomace. The method of Jones '799, while an improvement over the prior known systems, requires more outside water for the processing steps, does not teach recycling of water at a particular stage after any particular process, and produces only cold press peel oil, molasses and pectin pomace.

Thus, it is submitted that absent the hindsight offered by Applicant's disclosure, the method set forth in claim 17 is not obvious over Jones '799, since there is no teaching, motivation, or suggestion able to be garnered from Jones '799 in combination with the knowledge of the art such that one having ordinary skill in the art would have found obvious the claimed process steps. In short, the Examiner's position requires acceptance that the process diagrammed in Figures 1A and 1B of the application is obvious over the process diagrammed in Figure 1 of Jones '799. It is submitted that absent Applicant's disclosure, it would be practically impossible for one skilled in the art to derive the flow chart of Figures 1A and 1B from Jones '799.

For the same reasons as above, it is submitted that independent claim 29, which contains even more steps than claim 17, is likewise not obvious over Jones '799 in view of the state of the art and Chen et al. '141. Likewise, it is submitted that claims 18-28, dependent upon claim 17, are allowable on the basis of the allowability of claim 17.

It is respectfully submitted that the claims as originally presented/currently amended are patentable, on the basis of the above remarks, and reconsideration and subsequent passage for allowance is hereby requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Thomas C. Saitta".

Thomas C. Saitta, Reg. No. 32102
Attorney for Applicant

Rogers Towers, P.A.
1301 Riverplace Blvd.
Suite 1500
Jacksonville, FL 32207
904-346-5518
904-396-0663 (fax)

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